

REMARKS

By this amendment claims 43-46 are cancelled and claims 47 through 50 are added as new claims. These claims were added as new claims to obviate any confusion over which set of previous claims was being amended and no negative inference should be taken from the decision to cancel claims 43-46.

The claims have been amended to remove any the functionality of cleaning the projection on the body with the flowing water to overcome the Final Rejection based on 35 U.S.C § 112. Applicants' representative Jim Haller discussed this change with the Examiner on November 22, 2005, at which time the Examiner indicated that similar amendments would not be entered because he felt that the claims would still be rejected in light of the prior art, in particular U.S. Patent Number 4,081,139 to Migliozi ("Migliozi").

The Examiner has maintained the position that the present invention has been anticipated by Migliozi . Applicants' respectfully disagree with this assertion, and we trust that the new claims, which include many specific structural features as well as clarifying the position, purpose and manner of operation of the handle, can serve to distinguish the present invention from this reference.

Migliozi describes an apparatus having a circular support body (36) pivotally mounted on a central support shaft (20), with a number of spokes (38 to 46) extending radially outwards from the center thereof. A basket (50) containing soap is hung on each spoke. The baskets are moveable into and out of a stream of water by manipulation of a handle (34), located at the lower extremity of the long support shaft (20) and thereby disposed below and away from the support body (36) and baskets hanging therefrom. The support body, including spokes with baskets hanging therefrom are pivotable about the longitudinal axis of the support shaft. The water

outlet, being a shower head (12), is mounted about an upper end of the central support shaft by a mounting member (32) with the support shaft being pivotable within the connection (22) with the mounting member.

The structural features, as described by Migliozzi, dictate that the water outlet must either extend from above the apparatus (10), or extend from a wall a length that is at least the diameter of the circular support, so as to provide adequate room for positioning and movement of the circular support about the central support shaft.

This arrangement is in clear contrast to the device of the present application, where the various structural features allow for the device to be mounted and located near a water outlet or tap that extends only a short distance out from a wall.

In the present application and defined by the amended claims, the body of the retaining means (20), which holds the soap (30), is attached to the open end of the tap by an L-shaped member (50) having an arm with a clamp (51, 52) to engage about the tap outlet. The L-shaped member further includes a shank (60), extending downwardly from the arm, the shank (60) having a pivotal member (62) at a lower end thereof. In this arrangement, the pivotal member (62) is disposed directly below the tap and is adjacent to the outlet thereof.

Importantly, the shank is fixedly attached to the arm so that the arm and shank are unable to move relatively to each other at all. It is only the pivotal member at the lower end of the shank that is able to move so as to enable pivoting of the body into and out of the water stream from the tap.

Pivoting of the body containing the soap is effected by manipulation of a handle (22). The handle is importantly mounted directly upon and extends outwardly from the body, further adding to the discrete and compact nature of the device.

In the present invention, the body of the retaining means is importantly directly mounted to the pivotal member. This advantageously maintains that the body is located proximally to the tap and at all positions and allows the device to be neatly mounted onto any sort of water outlet, even if the water outlet is very close to a fixed and immovable structure, such as a wall. Clearly, the arrangement of Migliozi does not allow for this advantage.

It cannot possibly be construed that the arrangement in Migliozi has a body “directly mounted to the pivotal member so as to enable said body to pivot about an axis parallel to the direction of water flow into and out of the water stream whilst locating the body proximally to the tap in all positions.” The entire arrangement of Migliozi is an extremely cumbersome arrangement, and does not in any possible way describe a discrete, compact system that by virtue of its various structural features and the manner in which these features are arranged, has the versatility and applicability seen in the present invention. The structure of the present invention and as defined in the claims is advantageously able to be mounted about a tap in a way that does not in any way restrict access to the tap, nor require the tap to be mounted a considerable distance from a wall in order to operate properly.

It will also be noted that the handle (34) of the apparatus described in Migliozi is located remotely from the baskets containing soap. This is also in clear contrast to the position of the handle (22) in the present invention, where the handle extends outwardly from the body containing soap, offering a neater and more compact arrangement than could ever be achieved by the apparatus of Migliozi.

Applicant respectfully submits that these claims are now in condition for allowance. Because the remaining claims depend either directly or indirectly from these claims and include all of the limitations of the independent claims, these claims are also in condition for allowance.

It is noted that Applicant has amended the above-identified claims solely to advance prosecution of the instant application and to obtain allowance on allowable claims at the earliest possible date. Accordingly, no admission may be inferred from the amendments of claims herein. Applicant expressly reserves the right to pursue the originally filed claims in the future.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



Frank P. Piskolich
Registration No. 52,123

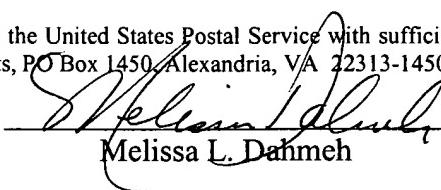
Customer No. 22859
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425 USA
Telephone: (612) 492-7000
Facsimile: (612) 492-7077

Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 06-1910.

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on

12/20/05
Date of Deposit



Melissa L. Dahmeh

#3211264\1